

# **LINCOLN COUNTY BOARD OF EDUCATION**

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June 26, 2014

Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12th Street, SW  
Washington, DC 20554  
ELECTRONICALLY FILED VIA ECFS

RE: CC Docket No. 02-6

Petition For Waiver Of Form 486 Filing Deadline

On February 12, 2014 a Form 486 was submitted for Funding Request Number 2043769. The Service Start Date of this form was modified to 10/15/13 due to the Form 486 filing deadline (see attached "Form 486 Notification Letter.pdf"). An appeal of the Service Start Date modification was submitted to USAC on April 23, 2014. The USAC appeal was denied on May 1, 2014 (see attached "Form 486 Appeal Denial Letter.PDF").

Lincoln County School District, Billed Entity Number 128815, (LCSD) is requesting a waiver of the Form 486 filing deadline for Form 486 number 1002635. This Form 486 is for Form 471 application number 756245, Funding Request Number 2043769.

The reason for this waiver request is that the Form 486 for the above referenced FRN was inadvertently not filed in the Form 486 filing window due to a clerical error caused by a combination of: 1) delays in implementation, 2) third party circumstances beyond LCSD control, and 3) complexity of the E-Rate program. During the implementation of the VoIP System LCSD encountered materials shortages, delays in scheduling, the VoIP System became obsolete and had to be re-designed, a Service Substitution had to be submitted for the new VoIP System, and VoIP Service Provider scheduling and billing issues. These issues caused the implementation to drag out for 2 ½ years as described below.

On April 5, 2011 a Funding Commitment Decision Letter was issued for the VoIP Telephony system. Before the VoIP system could be installed, the Local Area Network Cabling infrastructure and Networking Electronics had to be upgraded at four schools. There were issues obtaining materials from suppliers and multiple times projects had to be rescheduled. This process took more than 12 months to complete.

After the Local Area Network Cabling and Electronics upgrade was completed, it was determined that the VoIP System approved on Form 471 was obsolete and therefore no longer available to purchase. This required a total VoIP System redesign by the Windstream Communications, Inc., the Service Provider. It took several months to receive a new system design which then had to be submitted to USAC as a Service Substitution request.

After the Service Substitution was approved, LCSD then attempted to start the project and was delayed by the Service Provider repeatedly until July 1, 2013 when services actually started. Work was completed on the VoIP System September 30, 2013.

Before the implementation began LCSD asked Windstream to file Form 474 Service Provider Invoices for the E-Rate 87% discounted portion of the project and invoice LCSD for the 13% non-discounted portion of the project. Windstream began issuing invoices for the completed projects in August 2013, but did not provide discounted invoices. LCSD again asked Windstream to provide discounted invoices and subsequently received them. Upon receipt of the discounted invoices LCSD paid them promptly. On February 11<sup>th</sup> Windstream Representatives contacted LCSD asking when the balance on the VoIP System invoices was going to be paid. It was then determined Windstream had failed to submit Form 474 Service Provider Invoices for the project to USAC before the invoicing deadline of January 28<sup>th</sup>, 2014 and that a Form 486 needed to be filed. Had Windstream submitted Service Provider Invoices within the invoicing filing window, it would have been evident a Form 486 needed to be submitted. At that time the Form 486 could have been submitted within the 486 filing window. The failure to file the Form 474 was a third party error beyond the control of LCSD.

In the Alaska Gateway School District decision DA 06-1871 the Federal Communication Commission's Wireline Competition Bureau found that where special circumstances are present and a Form 486 was not filed on a timely basis, good cause exists to grant a waiver of the filing deadline and direct USAC to process the applicant's Form 472 reimbursement application without a postponement of the funding start date. The Wireline Bureau noted that in these cases the applicants missed a procedural deadline and did not violate a substantive rule. The Bureau has consistently applied the Alaska Gateway standard in subsequent orders granting waivers of the Form 486 filing deadline.

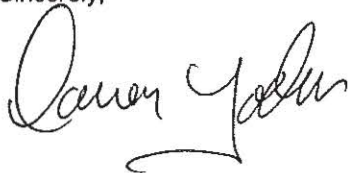
The FCC also found that under certain circumstances, rigid adherence to certain E-rate rules and requirements that are "procedural" in nature does not promote the goals of section 254 of the telecommunications Act of 1996 – ensuring access to discounted telecommunications and information services to schools and libraries – and therefore does not serve the public interest.

The Bureau further noted in Alaska Gateway School District Decision that denying the petitioners' requests would create undue hardship and prevent these otherwise eligible schools and libraries from receiving funding that they need to bring advanced telecommunications and information services to their students and patrons. The consequences of a denial of funding would not further the purposes of section 254(h) of the Telecommunications Act of 1996 or serve the public interest.

LCSD is a small school district in rural central Kentucky providing a quality education to the K-12 children of Lincoln County. Loss of funding for this project would result in an extreme hardship on the district. In fact, this project would not have been implemented had it not been for the E-Rate funding commitment.

I respectfully request that the Form 486 filing deadline be waived and the Service Start Date for FRN 2043769 be modified from 10/15/2013 to 7/1/2013.

Sincerely,

A handwritten signature in black ink, appearing to read "Darren Yaden", with a stylized, flowing script.

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